

### **REMARKS**

The Final Office Action mailed October 1, 2010 (hereinafter, "Office Action") has been reviewed and the Examiner's comments considered. Claims 1, 2, 6-11, 14, 15, 17, and 19-25 are pending in this application. Claims 3-5, 12, 13, 16, and 18, indicated by the Office Action as withdrawn from consideration, are no longer pending in the case, having been previously canceled. Claims 19 and 24 are amended herein. Applicants submit that no new matter is introduced.

#### **Claim Rejections - 35 U.S.C. § 103**

Claims 1, 2, 6-11, 14, 15, 17, and 19-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,029,095 to Pena et al. (hereinafter, "Pena") in view of USPN 3,783,870 to Schachet (hereinafter, "Schachet"). Applicants respectfully traverse this rejection.

Independent claim 1 recites, *inter alia*, "wherein said inflow one-way valves and said outflow one-way valves allow fluid passage through said inflow and outflow valves when said pump is so positioned such that all power for fluid flow is provided by gravity alone." Independent claims 17, 19, and 24 include similar limitations.

With respect to the combination of Pena/Schachet, independent claims 1, 17, 19, and 24 are allowable at least because Pena/Schachet fails to show or describe "said inflow one-way valves and said outflow one-way valves allow fluid passage through said inflow and outflow valves when said pump is so positioned such that all power for fluid flow is provided by gravity alone."

The Office Action alleges that Pena discloses "a pair of one-way valves [that] are providing one-way flow (col. 2, lines 21-26), and therefore is fully capable of providing the flow by gravity alone if positioned vertically." (Office Action, p. 4.) Applicants respectfully disagree. If the valves 12 and 13 could open simply because of gravity the Pena device would not function in the manner expressly disclosed. Specifically, the springs 14 and 15 in the valves 12 and 13, respectively, prevent the valves from opening in a manner that "all power for fluid flow is provided by gravity alone."

As stated in Pena:

Thus, the one-way valve 12 is urged by a spring 14 to a position closing the openings 16 in a transverse wall of the valve which is surrounded by a tubular portion thereof interconnecting one end of the elastic bulb 11 with one end of the container means 6 as illustrated. The spring 14 normally maintains the valve 12 in its closed position closing the openings 16. When the bulb 11 is compressed, the valve 12 will remain closed. However, when it expands, in response to the suction created by this expansion the spring 14 yields to enable the valve 12 to open in the manner illustrated in FIG. 2, thus permitting the fluid to flow only from the container means 6 into the elastic bulb 11.

At the pressure outlet of the pump means 11 there is also a one-way valve means 13 which normally assumes the closed position shown in FIG. 2. The valve 13 when in its closed position closes the openings 17 of a transverse wall which extends across the interior of the tubular housing of the valve 13, this tubular housing communicating at one end with the pressure outlet of the pump means and at its opposite end with the elongated tubular portion 10 of the pressure tubular means which again is connected by way of a rigid sleeve 3a with the pressure-limiting portion 10a which in turn communicates through the sleeve 3a with the cannula 2a provided with the flange 4a and elastic lip 5a as provided above. As is apparent from FIG. 2, when the bulb 11 expands to create a suction which opens the valve 12, this suction acts together with the spring 15 to maintain the valve 13 closed. However, when the bulb 11 is compressed by the operator to increase the pressure in the interior of the bulb 11, the valve 12 will remain closed while this excess pressure will cause the spring 15 to yield while the valve 13 is displaced downwardly as viewed in FIG. 2 away from its closed position, thus permitting the fluid under pressure to flow through the openings 17 into the pressure tubular means. Thus, by successively compressing and releasing the elastic bulb 11 it is possible for the operator to provide the closed-circuit circulation of the disinfecting and possibly therapeutic treating fluid.

(Pena, col. 4, l. 58 – col. 5, l. 31, emphasis added.)

Accordingly, to function as disclosed, the valves 12 and 13 must be able to remain closed regardless of the orientation of the device so that the valves can open and close only “by successively compressing and releasing the elastic bulb 11,” which is the stated operation of the Pena device.

Applicants also refer to Pena FIG. 3, which illustrates how the Pena device would be inoperable if it was able to function in the manner alleged by the Office Action. In particular, if the allegation that the Pena device “is fully capable of providing the flow by gravity alone if positioned vertically” is correct, then the valves would open due to gravity and the fluid would run to the lowest point rather than flow as expressly described in Pena and quoted above.

Accordingly, independent claims 1, 17, 19, and 24 are patentable over Pena/Schachet at least because the cited combination fails to show or describe each element of the claims. Claims 2, 6-11, 14, 15, 20-23, and 25 are patentable because they depend from a patentable independent claim, and also because they recite features not shown or described by the cited art. Therefore, Applicants request favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

### **Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicants of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

This is filed with an RCE and fee of \$810. If further fees are due, please charge our Deposit Account No. 50-2191, under Order No. 101672.0071P from which the undersigned is authorized to draw.

Dated: December 30, 2010

Respectfully submitted,

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